



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,693	09/08/2003	Roy Higgs		1258

7590 08/17/2009
Patent Office of J. John Shimazaki
P.O. Box 650741
Sterling, VA 20165

EXAMINER

BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
----------	--------------

3622

MAIL DATE	DELIVERY MODE
-----------	---------------

08/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,693

Applicant(s)

HIGGS, ROY

Examiner

NAMRATA BOVEJA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
4a) Of the above claim(s) 1-39 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 40-58 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to communication filed on 04/23/2009.
2. Claims 1-39 have been cancelled. Newly submitted claims 40-58 have been entered and are presented for examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 40-58, are rejected under 35 U.S.C. 101, because, based on Supreme Court precedent, a method/process claim must (1) be tied to another statutory class of invention (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method or process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here the claim fails to meet the above requirements because the steps are neither tied to another statutory class of invention (such as a particular apparatus) nor physically transform underlying subject matter (such as an article or materials) to a different state or thing. *There is not a substantial nexus between the method and the building (i.e. apparatus), since the preamble states this is a method, but there are no underlying method steps for developing the actual building. The claim states a method of developing a shopping*

complex...and then states comprising providing a shopping complex, so there is no building being constructed, since it already exists and is just being provided for a use. There is also no transformation, since there are no steps being claimed to develop a building by using a machine for example. If the Applicant is claiming a pre-existing building, then this is not a proper method claim but rather an apparatus claim. If the Applicant is claiming the method of developing a building, then he needs to recite the method steps of actually constructing the building, which he has not done here. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. *The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:*

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

There are two separate requirements set forth in this paragraph:

- (A) the claims must set forth the subject matter that applicants regard as their invention; and*
- (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.*

Claims 40-58 are rejected under 35 U.S.C. 112, second paragraph, since the preamble recites a method of developing a shopping complex... comprising: providing a shopping complex and this renders the claim indefinite, because it is unclear what the Applicant is claiming here. Specifically, no steps are being claimed for developing the shopping complex. Furthermore, the claims first state developing and then recite providing a shopping complex, and if the shopping complex is simply provided that

implies that it was already developed and in existence and not being developed as claimed in the preamble. It is interpreted to mean that there is an already existing shopping complex, and this is a method of encouraging retail tenants to occupy and lease space in that complex. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Disclaimer: *Claims 40-58 are found to be deficient under U.S.C. 112 second paragraph. To the extent the claimed invention was understood, the following art was applied.*

5. Claims 40-58, are rejected under U.S.C. 103(a) as being unpatentable over the article titled, "Burlington Outlet Opens At Commons Chain Fills Void Left By Kmart," by Ron Maxey, published in The Commercial Appeal on March 13, 1997 on pg. SE.1 (hereinafter Maxey), in view of the article titled, "Promotional Ties to Charitable Causes Help Stores Lure Customers," by Ann Zimmerman published in the Wall Street Journal on December 2, 2000 on pg. B.1 (hereinafter Zimmerman) and further in view of the article titled, "Retailers gear up for big party: Businesses try quirky promotions during convention," by The Associated Press, published in the Charleston Daily Mail on July 29, 2000 on pg. 3.A (hereinafter TAP).

In reference to claim 40, Maxey teaches the method of encouraging retail tenants to occupy and lease space within a shopping complex, comprising: providing a shopping complex under common ownership having a plurality of individual spaces capable of being leased to individual retail tenants (page 1 paragraphs 1-3 and page 2 paragraph 13).

Maxey does not specifically teach providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment; conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant. Zimmerman teaches providing a physical microenvironment (i.e. 20 blocks of Madison Avenue in New York including stores such as Armani and Zitomer) within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment (i.e. holiday charity theme or a back to school shopping theme) (page 2 paragraphs 2, 3, and 8). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include providing a physical microenvironment within said shopping complex comprising a

common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment to have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.

Maxey does not specifically teach conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant. *TAP teaches* conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to conduct at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.

Maxey does not teach the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year and is*

part of the normal ongoing activity of the shopping complex. Zimmerman teaches the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year and* is part of the normal ongoing activity of the shopping complex (i.e. the shopping card promotion is an ongoing activity lasting *one week and/or 9 days each year since the charity event can be held as a back to school event in the Fall before school starts and near Christmas at the end of October*) (page 1 paragraph 2, page 2 paragraph 8-10, and page 3 paragraph 1). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year and* is part of the normal ongoing activity of the shopping complex to encourage customers to return to the shopping center to make additional purchases so that the customers can take advantage of participating in the *seasonal* activity.

6. In reference to claim 46, Maxey teaches a method of encouraging retail tenants to occupy and lease space within a shopping complex, comprising: providing a shopping complex under common ownership having a plurality of individual .spaces capable of being leased to retail tenants (page 1 paragraphs 1-3 and page 2 paragraph 13); selecting (i.e. locating) and causing said at least one of said retail tenants to occupy and lease, at least one space within or near said microenvironment (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraph 13).

Maxey does not specifically teach providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the

goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment; conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant. Zimmerman teaches providing a physical microenvironment (i.e. 20 blocks of Madison Avenue in New York including stores such as Armani and Zitomer) within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment (i.e. holiday charity theme or a back to school shopping theme) (page 2 paragraphs 2, 3, and 8). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment to have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.

Maxey does not specifically teach conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed*

to entertain customers and attract them to the shopping complex, and have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant. TAP teaches conducting or having conducted at least one entertaining activity within said microenvironment consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to conduct at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.*

Maxey does not teach the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year and is* part of the normal ongoing activity of the shopping complex. Zimmerman teaches the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year and is* part of the normal ongoing activity of the shopping complex (i.e. the shopping card promotion is an ongoing activity lasting *one week and/or 9 days each year since the charity event can be held as a back to school event in the Fall before school starts and near Christmas at the end of October*) (page 1 paragraph 2, page 2 paragraph 8-10, and page 3 paragraph 1). It

would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year and* is part of the normal ongoing activity of the shopping complex to encourage customers to return to the shopping center to make additional purchases so that the customers can take advantage of participating in the *seasonal* activity.

7. In reference to claim 53, Maxey teaches a method of encouraging retail tenants to occupy and lease, space within a shopping complex, comprising: providing a shopping complex having a plurality of individual spaces capable of being leased to individual retail tenants (page 1 paragraphs 1-3 and page 2 paragraph 13).

Maxey does not specifically teach providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment; conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant. Zimmerman teaches providing a physical microenvironment (i.e. 20 blocks of Madison Avenue in New York including stores such as Armani and Zitomer) within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein

the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment (i.e. holiday charity theme or a back to school shopping theme) (page 2 paragraphs 2, 3, and 8). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include providing a physical microenvironment within said shopping complex comprising a common area having a theme associated with the goods and/or services sold by said at least one of said individual retail tenants, wherein the type of goods and/or services that it sells is/are designed to be associated with the theme of said microenvironment to have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.

Maxey does not specifically teach conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant. *TAP teaches* conducting or having conducted at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the shopping complex, and have the effect of* promoting at least some of the goods and/or services sold by said at least one retail tenant (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to conduct at least one *entertaining* activity within said microenvironment *consistent with said theme designed to entertain customers and attract them to the*

shopping complex, and have the effect of promoting at least some of the goods and/or services sold by said at least one retail tenant to help increase sales by driving my customers to the businesses.

Maxey does not teach the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year* and is part of the normal ongoing activity of the shopping complex. Zimmerman teaches the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year* and is part of the normal ongoing activity of the shopping complex (i.e. the shopping card promotion is an ongoing activity lasting *one week and/or 9 days each year since the charity event can be held as a back to school event in the Fall before school starts and near Christmas at the end of October*) (page 1 paragraph 2, page 2 paragraph 8-10, and page 3 paragraph 1). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said at least one activity *comprises* an ongoing activity that *extends substantially through multiple seasons of the year* and is part of the normal ongoing activity of the shopping complex to encourage customers to return to the shopping center to make additional purchases so that the customers can take advantage of participating in the *seasonal* activity.

8. In reference to claims 41, 47, and 54, Maxey does not teach the method wherein the activity conducted within said microenvironment enables at least a portion of the goods or services offered for sale by said at least one retail tenant to be tried or tested by consumers. TAP teaches the method wherein the activity conducted within said

microenvironment enables at least a portion of the goods or services offered for sale by said at least one retail tenant to be tried or tested by consumers (i.e. cookies, pies, jelly beans, and martinis) (page 1 paragraphs 1, 4, and 5, page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein the activity conducted within said microenvironment enables at least a portion of the goods or services offered for sale by said at least one retail tenant to be tried or tested by consumers, since this would give the user an opportunity to sample the product before purchasing it and would encourage the user to try out new products without the risk of having to come back to return the product if the user doesn't like the item.

9. In reference to claims 42 and 48, Maxey does not specifically teach the method wherein said microenvironment is located indoors, outdoors or both indoors and outdoors, within said shopping complex. Zimmerman teaches the method wherein said microenvironment is located indoors, outdoors or both indoors and outdoors, within said shopping complex (i.e. 20 blocks of Madison Avenue in New York including stores such as Armani and Zitomer) (page 2 paragraphs 2, 3, and 8). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said microenvironment is located indoors, outdoors or both indoors and outdoors, within said shopping complex to provide the customers a one-stop shopping experience by locating multiple retailers in the vicinity of each other.

10. In reference to claim 43, 49, and 55, Maxey does not specifically teach the

method wherein said theme relates to cooking and tasting activities. TAP teaches the method wherein said theme relates to cooking and tasting activities, wherein said at least two of said retail establishments comprises at least one store that sells goods relating to said cooking and tasting display activities (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said theme relates to cooking and tasting activities, to provide to the customers who are interested in exploring cooking and tasting products during a shopping trip an opportunity to sample the products before purchasing them and to encourage the customers to try out new products without the risk of having to come back to return the products if the user doesn't end up liking the products.

11. In reference to claims 44, 50, and 56, Maxey does not specifically teach the method wherein said activity comprises cooking and tasting activities and displays. TAP teaches the method wherein said activity comprises cooking and tasting activities and displays (page 1 paragraphs 1, 2, 4, and 5 and page 2 paragraphs 4-10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said activity comprises cooking and tasting activities and displays, since this would give the user who are interested in exploring cooking and tasting products during a shopping trip an opportunity to sample the products before purchasing them and would encourage the user to try out new products without the risk of having to come back to return the products if the user doesn't end up liking the products.

12. In reference to claims 45, 52, and 57, Maxey teaches the method, wherein the method comprises selecting (i.e. locating) at least two individual retail tenants to occupy space within or near said microenvironment (page 2 paragraph 13).

Maxey does not specifically teach the two individual retail tenants to relate to cooking and/or tasting activities and displays and/or cookware and/or unique foods. TAP teaches the two individual retail tenants to relate to cooking and/or tasting activities and displays and/or cookware and/or unique foods (page 1 paragraphs 2 and 5 and page 2 paragraphs 4, 5, 8, and 10). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said activity comprises cooking and tasting activities and displays and/or cookware and/or unique foods to enable users to experience different and unique foods that have a related theme.

13. In reference to 51, Maxey does not teach the method wherein said at least one activity is *part of the normal ongoing activity of the shopping center*.

Zimmerman teaches the method wherein said at least one activity is an ongoing activity that is part of the normal ongoing activity of the shopping complex (i.e. the shopping card promotion is an ongoing activity lasting *one week and/or 9 days each year since the charity event can be held as a back to school event in the Fall before school starts and near Christmas at the end of October*) (page 1 paragraph 2, page 2 paragraph 8-10, and page 3 paragraph 1). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Maxey to include the method wherein said at least one activity *comprises* an ongoing activity *that* is part

of the normal ongoing activity of the shopping complex to encourage customers to return to the shopping center to make additional purchases so that the customers can take advantage of participating in the activity.

14. In reference to claim 58, Maxey teaches the method, wherein said shopping complex is under common ownership (page 1 paragraphs 1-3 and page 2 paragraph 13).

Response to Arguments

15. After careful review of Applicant's remarks/arguments filed on 04/23/09, the Applicant's arguments with respect to claims 40-58 have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to claims 40, 46, 51, and 53, have been entered and considered.

16. Applicant argues the activities in Applicant's invention are ongoing and extend substantially through multiple seasons of the year. With respect to this argument, Zimmerman teaches the method wherein said at least one activity comprises an ongoing activity that extends substantially through multiple seasons of the year and is part of the normal ongoing activity of the shopping complex, since it teaches that the shopping card promotion is an ongoing activity lasting one week and/or 9 days each year since the charity event can be held as a back to school event in the Fall before school starts and near Christmas at the end of October (page 1 paragraph 2, page 2 paragraph 8-10, and page 3 paragraph 1).

17. Applicants amendments did not successfully address the 35 U.S.C. 101 rejection, and this rejection is therefore maintained.

18. Applicants amendments caused the introduction of a new 35 U.S.C. 112 second paragraph rejection.

19. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central FAX** phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

/NAMRATA BOVEJA/

Examiner, Art Unit 3622